**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE**
**AND**
**HON'BLE MS JUSTICE G.ROHINI**

**WRIT APPEAL No.873 OF 2007**

Between:

A.Raju and others

. . .Appellants

AND

The State of Andhra Pradesh and others

. . .Respondents

**:: JUDGMENT ::**

Counsel for the appellants : Shri N.Krishna Rao

Counsel for respondent Nos.1 to 3: Government Pleader for Endowments

Counsel for respondent No.4 : Shri V.T.M.Prasad

Counsel for respondent No.5 : Shri Yadagiri Rao

**30th October, 2007**

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**PER G.S.SINGHVI, CJ**

This is an appeal for setting aside the order of the learned Single Judge, who declined the appellants' prayer for issue of a mandamus to the respondents to extend the lease in their favour in respect of land measuring Ac.53-00 situated in Survey Nos.51, 52, 73, 74, 75, 94, 95, 96, 101, 102 and 144 of Eluru Village, Prathipadu Mandal, East Godavari District and to quash notice dated 05.7.2007 issued by the Executive Officer of Shri Venkateswara Swamy Devasthanam, Dwaraka Tirumala, West Godavari District to auction the land in question for grant of lease.

In the writ petition filed by them, which was registered as Writ Petition No.15749 of 2007, the appellants claimed that they have been cultivating the land for last many years and have acquired a right to be granted lease under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act') read with the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 to the exclusion of others, but instead of granting lease to them, the management of the Temple and the Trustee of Arempudi Choultry, Sankhavaram Mandal were seeking to auction the same.

In the counter filed on behalf of the Temple, it was averred that the land in question belongs to Arempudi Choultry of Annavaram Village, which is an adopted institution of the Temple and that the petitioners do not have any right over the land. It was further averred that the petitioners are not the lessees and that by mere depositing of

Makthas, they cannot be said to have acquired any right over it. Still further, it was averred that in the public auction conducted in July, 2007, 23 different persons gave bid of Rs.6,20,000/- in respect of land measuring Ac.103.62 cts. and the highest bidders have deposited a sum of Rs.1,03,620/- as security.

On a consideration of the pleadings of the parties and the provisions of the Act and Rules and by relying on the judgment of the Division Bench in Writ Appeal No.1302 of 2003 – **Katta Naga Malleswararao v. Government of Andhra Pradesh** and of the learned Single Judge in **Dega Babi Reddy v. Government of A.P.**[1], the learned Single Judge held:

"In the light of the views expressed by the Division Bench of this Court and also the learned Judge of this Court, referred to supra, even if the respective pleadings of the parties, the respective stands taken by the parties and the whole material placed before the Court, if carefully examined, this Court is satisfied that in the facts and circumstances it cannot be said that the status of a tenant can be conferred on these petitioners in the absence of approved leases in accordance with the provisions of the Act and the Rules referred to supra and when the writ petitioners do not satisfy the necessary essentials to be satisfied so as to attract the status of the tenants as such, it is needless to say that the mere fact that the writ petitioners are able to show that at some point of time the petitioners or their family members had been in possession of certain extents, by that itself the writ petitioners cannot claim any legal right as such and hence this Court is satisfied that in the absence of acceptable material placed before this Court in this regard, the writ petitioners are bound to fail. Accordingly, the Writ Petition shall stand dismissed. It is needless to say that the interim order made by this

Court stands vacated since the Writ Petition itself is being dismissed by this Court being devoid of merit. However, in the light of the respective stands taken by the parties, the parties to the litigation to bear their own costs."

Shri P. Venugopal Rao, learned counsel for the appellants fairly admitted that he is not in a position to substantiate his clients' assertion that they were cultivating the land in question as lessees and requested that the Court may direct the respondents not to dispossess

them till the harvesting of the existing crop.

Learned counsel for the respondents submitted that they do not have any objection provided that the appellants handover vacant possession of the land immediately after harvesting the crop.

In view of the statements made by the learned counsel, the appeal is dismissed subject to the following directions:

(1) The appellants shall be entitled to harvest the standing crop on or before 31.12.2007 subject to the condition that within seven days from today, they shall furnish written undertaking in the form of duly verified affidavits before Executive Officer of respondent No.4 – Shri Venkateswara Swami Devasthanam, Dwaraka Tirumala, West Godavari District that they will

hand over vacant possession of the land latest by 31.12.2007.

(2) If any of the appellants fails to furnish written undertaking within seven days, then the concession granted by the Court in the form of permission to harvest the crop on or before 31.12.2007 will not be available to such of the appellants.

(3) If the appellants or any one of them fail to hand over vacant possession of the land by 31.12.2007, then the respondents shall be entitled to secure the possession by using all legally permissible means and also taking police help.

(4) No Civil Court in the State of Andhra Pradesh shall entertain any suit for permanent or temporary injunction, which may be filed by the appellants for the purpose of being allowed to retain possession of the land.

Copies of this order be sent to Chief Judge, City Civil Court,

Hyderabad and District Judge, West Godavari. They should circulate this order among the judicial officers of their respective jurisdictions.

**G.S.SINGHVI, CJ**

30th October, 2007

**G.ROHINI, J**

svs

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[1] 2006(6) ALT 173